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**ORDINANCE NO. 3783**

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING INTERIM ORDINANCE 3775 AND TITLE 20 ECDC REVIEW CRITERIA AND PROCEDURES TO EXPAND OPPORTUNITIES FOR CLOSED RECORD ADMINISTRATIVE APPEALS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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WHEREAS, Title 20 ECDC was recently amended; and

WHEREAS, during said recent amendment, closed record administrative appeals before the City Council on quasi judicial matters were limited; and

WHEREAS, the City Council wishes to afford the opportunity for closed record appeals on quasi judicial matters as it did before the aforementioned amendment; and

WHEREAS, following the public hearing on Interim Ordinance No. 3775, the City Council deems it to be in the public interest to correct certain references in Title 20 to achieve consistency and restore or clarify provisions eliminated in the original code amendment and relevant to the amendments of Interim Ordinance No. 3775; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby makes the findings as set forth in the "WHEREAS" clauses, which are adopted and incorporated herein by this reference in support of this interim Ordinance.

Section 2, Amended. Interim Ordinance 3775 and subsection ECDC

20.01.003(A) of the Edmonds Community Development Code is hereby amended to read as follows:

A. Decisions.

TYPE I	TYPE II	TYPE III-A	TYPE III-B	TYPE IV-A	TYPE IV-B	TYPE V
Statement of zoning restriction	Modification to landscape plans	Plat vacations and alterations	Essential public facilities	Final formal plats	Site specific/contract rezone	Development agreements
Boundary line adjustments, lot line adjustment, lot combination	Formal interpretation of the text of the ECDC by the director or designated staff	Preliminary planned residential development	Architectural design board review	Final planned residential development		Zoning text amendments; area-wide zoning map amendments
Permitted uses not requiring site plan review	Home occupation permit	Site plan/major amendments to site plans	Shoreline substantial development, shoreline conditional use, shoreline variance			Comprehensive plan amendments
Special use permits	Accessory dwelling unit		Conditional use			Annexations
Minor amendments to planned residential development	SEPA determinations		General variances and sign permit variances			Development regulations
Minor preliminary plat amendment	Revisions to shoreline management permits		Draft environmental impact statement			Master plan
Staff design review	Administrative variances		Preliminary formal plats			

Sign permits	Preliminary short plats					
Final short plats	Land clearing / grading					

Section 3. Amended. Subsection 17.50.090(A)(3) of the Edmonds Community

Development Code is hereby amended to read as follows:

3. Applications for a conditional use permit, or an appeal of a staff decision approving or denying a one-year extension thereof shall be reviewed by the hearing examiner under the same terms and conditions as any conditional use permit utilizing the criteria contained in Chapter 20.05 ECDC and under the procedural requirements contained in Chapter 20.06 ECDC. An application for a two-year extension of a conditional use permit for a temporary parking lot shall be processed in the same manner as an initial application for a conditional use permit for a temporary parking lot and new or changed conditions may be imposed in the course of that process. Decisions of the hearing examiner on granting or extending conditional use permits for temporary parking lots shall be appealable to the city council under the process contained in Chapter 20.07 ECDC.

Section 4. Amended. Interim Ordinance 3775 and Section 17.70.010, Other temporary buildings., of the Edmonds Community Development Code is hereby amended to read as follows:

**17.70.010 Other temporary buildings.**

Except as provided in ECDC 17.70.030, a conditional use permit shall be required to construct a temporary building in any zone. The permit shall be administratively reviewed by staff and shall be valid for a period of one year; provided, however, that said permit may be extended by the development services director for a single one-year extension upon submittal of a written application prior to the expiration of the original permit. All the requirements of the zoning district shall be met. An appeal of the staff decision granting or denying such a permit or extension shall be reviewed by the hearing examiner in accordance with the requirements for any other conditional use permit under Chapter 20.06 ECDC,

Section 5. Amended. Section 17.75.020, Primary uses requiring a conditional use permit., of the Edmonds Community Development Code is hereby amended to read as follows:

**17.75.020 Primary uses requiring a conditional use permit.**

Outdoor dining shall be a primary use requiring a conditional use permit in the BN – neighborhood business zone, BC – community business zone, BD – downtown business zone, CW – commercial waterfront zone, and CG – general commercial zone, for outdoor seating which exceeds 10 percent of the existing interior seating in the establishment or more than eight seats, whichever is greater. This use shall be established and maintained only in accordance with the terms of a conditional use permit approved by the hearing examiner as a Type III-B decision under the procedural requirements contained in Chapter 20.06 ECDC. At a minimum, the conditions considered for imposition by the hearing examiner may include a restriction on operating hours, location of the outdoor seating, and/or buffering of the noise and visual impacts related to the outdoor dining seating. All seating permitted pursuant to the conditional use permit shall be located outside of public rights-of-way. If outdoor seating is approved under these provisions, no additional parking stalls shall be required for the outdoor dining.

Section 6. Amended. Subsection 17.100.030(B) of the Edmonds Community Development Code is hereby amended to read as follows:

B. Decisions to approve, condition, deny, review or decline to renew a CUP shall be a Type III-B decision.

Section 7. Amended. Section 20.05.020, General requirements., of the Edmonds Community Development Code is hereby amended to read as follows:

**20.05.020 General requirements.**

A. Review. The hearing examiner shall review and decide on conditional use permit applications as Type III-B decisions as set forth in ECDC 20.01.003.

B. Appeals. Appeals of the hearing examiner's decisions shall be to the city council in accordance with Chapter 20.07 ECDC.

C. Time Limit. Unless the owner obtains a building permit, or if no building permit is required, substantially commences the use

allowed within one year from the date of approval, the conditional use permit shall expire and be null and void, unless the owner files an application for an extension before the expiration date and the city approves the application.

D. Review of Extension Application. An application for any extension of time shall be reviewed by the community development director as a Type II decision.

E. Location. A conditional use permit applies only to the property for which it has been approved and may not be transferred to any other property.

F. Denial. A conditional use permit application may be denied if the proposal cannot be conditioned so that the required findings can be made.

Section 8. Amended. Section 20.19.010, Conditional use permit required., of the

Edmonds Community Development Code is hereby amended to read as follows:

**20.19.010 Conditional use permit required.**

When a conditional use permit is required by the provisions of Title 16 ECDC relating to the zoning districts, conditional use permit applications for operation of a mini day-care shall be processed as a Type III-B decision utilizing the criteria set forth in this chapter. In addition to the specific criteria set forth herein, the hearing examiner and city council on appeal shall also review the application under the criteria and required findings set forth in Chapter 20.05 ECDC relating to conditional use permits in order to establish that the proposed facility is not deleterious to the immediately surrounding neighborhood nor constitutes a public nuisance. The hearing examiner, or the city council on appeal, may impose reasonable conditions on the approval of the conditional use permit for mini day-care facilities in order to ensure that the criteria of ECDC 20.19.020 are met and that the facility is in harmony with the surrounding neighborhood. The city council's decision on appeal shall be final.

Section 9. Amended. Section 20.19.050, Appeal., of the Edmonds Community

Development Code is hereby amended to read as follows:

### **20.19.050 Appeal.**

Appeals may be taken from the hearing examiner's decision to the city council under the provisions of Chapter 20.07 ECDC. An appellant may challenge the imposition of conditions or may elect to challenge a later determination as to whether those conditions have been met. The city council's decision on appeal shall be final.

Section 10. Amended. Subsection 20.20.010(B) of the Edmonds Community

Development Code is hereby amended to read as follows:

B. A home occupation which does not meet one or more of the requirements of subsection A of this section may be approved as a conditional use permit (Type III-B decision) pursuant to Chapter 20.05 ECDC and the procedures set forth in Chapter 20.06 ECDC, if the home occupation:

Section 11. Amended. Section 20.55.030, Review, of the Edmonds Community

Development Code is hereby amended to read as follows:

### **20.55.030 Review.**

The hearing examiner shall review and issue decisions on shoreline permits as a Type III-B decision, using the criteria contained in the city shoreline master program, Chapter 23.10 ECDC, the policies of the Shoreline Act and of Chapter 173-14 WAC, or as the same may be amended.

Section 12. Amended. Subsection 20.75.065(D) of the Edmonds Community

Development Code is hereby amended to read as follows:

D. Formal Subdivision Review. The hearing examiner shall review a formal subdivision as a Type III-B decision in accordance with provisions of Chapter 20.06 ECDC.

Section 13. Amended. Section 20.75.070, Formal subdivision - Time limit., of the

Edmonds Community Development Code is hereby amended to read as follows:

### **20.75.070 Formal subdivision – Time limit.**

A decision on preliminary plats of a proposed formal subdivision shall be made within 90 days of the date of filing, unless the applicant

agrees to extend the time. Where applicable, additional time needed to prepare and circulate an environmental impact statement shall not be included within said 90 days.

Section 14. Amended. Section 20.85.020, General requirements., of the Edmonds

Community Development Code is hereby amended to read as follows:

**20.85.020 General requirements.**

A. Review. The hearing examiner shall review variances as Type III-B decisions in accordance with provisions of Chapter 20.06 ECDC.

B. Appeals. Appeals of the hearing examiner's decisions shall be to the city council in accordance with Chapter 20.07 ECDC.

C. Time Limit. The approved variance must be acted on by the owner within one year from the date of approval or the variance shall expire and be null and void, unless the owner files an application for an extension before the expiration and the city approves the application.

D. Review of Extension Application. An application for an extension of time shall be reviewed by the community development director as a Type II decision (Staff Decision – Notice Required).

E. Location. A variance applies only to the property for which it has been approved and may not be transferred to any other property.

Section 15. Amended. Subsection 23.40.210(C) of the Edmonds Community

Development Code is hereby amended to read as follows:

C. Hearing Examiner Review. The city hearing examiner shall, as a Type III-B decision (see Chapter 20.01 ECDC), review variance applications and conduct a public hearing. The hearing examiner shall approve, approve with conditions, or deny variance applications based on a proposal's ability to comply with general and specific variance criteria provided in subsections (A) and (B) of this section.

Section 16. Interim Ordinance 3775 and the Edmonds Community Development Code Chapter 20.100 **Miscellaneous Review** is hereby amended by the addition of a new section 20.100.030 Return of Appeal Fee to read as follows:

If an appeal to the City Council is upheld, the appeal fee shall be returned to the appellant. In the event an appeal is upheld in an administrative hearing conducted under the appeal processes provided for in ECDC 20.110.040(B) or (C), including appeals from the order of the building official, zoning official, or code enforcement officer, the appeal fee shall also be returned.

Section 17. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington Department of Community, Trade, and Economic Development as required by law.

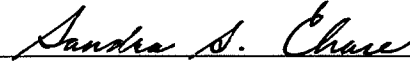
Section 18. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this interim Ordinance.

Section 19. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

  
MAYOR GARY HAAKENSEN

ATTEST/AUTHENTICATED:

  
CITY CLERK, SANDRA S. CHASE



APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

BY

  
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	01-29-2010
PASSED BY THE CITY COUNCIL:	02-02-2010
PUBLISHED:	02-07-2010
EFFECTIVE DATE:	02-12-2010
ORDINANCE NO. <u>3783</u>	

## SUMMARY OF ORDINANCE NO. 3783

of the City of Edmonds, Washington


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On the 2nd day of February, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3783. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING INTERIM ORDINANCE 3775 AND TITLE 20 ECDC REVIEW CRITERIA AND PROCEDURES TO EXPAND OPPORTUNITIES FOR CLOSED RECORD ADMINISTRATIVE APPEALS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 3rd day of February, 2010.

  
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CITY CLERK, SANDRA S. CHASE

# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH

} S.S.



## SUMMARY OF ORDINANCE NO. 3783

of the City of Edmonds, Washington  
On the 2nd day of February, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3783. A summary of the content of said ordinance, consisting of the title, provides as follows:  
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The full text of this Ordinance will be mailed upon request.

DATED this 3rd day of February, 2010.

CITY CLERK, SANDRA S. CHASE

Published: February 7, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3783

Interim Ordinance

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

February 07, 2010

and that said newspaper was regularly distributed to its subscribers during all of said period.

*Jody Grohl*

Principal Clerk

Subscribed and sworn to before me this

8th

day of

February, 2010

*[Signature]*

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

RECEIVED

FEB 16 2010

EDMONDS CITY CLERK

Account Name: City of Edmonds

Account Number: 101416

Order Number: 0001684510

